CHAPTER 8 FREE STANDING MENTAL HEALTH CLINICS

800 GENERAL PROVISIONS

800.1 The provisions of this chapter governing conditions of participation for providers of free standing mental health clinic services shall be in support and furtherance of the following goals:

(a) To provide quality mental health services to all in the total medicaid-eligible population who need them;

(b) To provide mental health treatment at locations most conducive to meeting the needs of the Medicaid patient;

(c) To ensure ongoing improvement in continuity of treatment among the various providers of such treatment; and

(d) To emphasize outpatient and community-based treatment in order to reduce the need for inpatient services.

800.2 A Free Standing Mental Health Clinic (also referred to in this chapter as a "FSMHC") desiring to participate as a provider of service in the D.C. Title XIX (Medicaid) program shall be certified as fully in compliance with all of the requirements set forth in this chapter.

800.3 Certification is the responsibility of the D.C. Department of Human Services (also referred to in this chapter as the "Department").

800.4 To obtain certification, a FSMHC shall meet the requirements set forth in §§801 through 808 of this chapter.

801 APPLICATION FOR CERTIFICATION

801.1 An application to participate in the Title XIX program shall be filed on forms provided by the Department of Human Services.

801 APPLICATION FOR CERTIFICATION (Continued)

801.2 The application shall contain, but not be limited to, the following:

(a) Name and address of the facility and location of all its places of business in the District or elsewhere in the United States;

(b) Names and addresses of the owners of the facilities. If the facility is a corporation, the application shall include the names and addresses of all persons having a five percent (5%) or greater ownership interest;

(c) If a corporation, the names and addresses of all officers and directors of the facility;

(d) The name of the physician who is responsible for directing the services in the FSMHC; and

(e) The name of the administrator.

802 CERTIFICATION REQUIREMENTS: GENERAL

802.1 The FSMHC shall be in conformity with federal and local laws and codes pertaining to health and fire safety, drug procurement and distribution, disposal of medications and controlled substances, building construction, maintenance and equipment standards, sanitation, and communicable and reportable diseases.

802.2 The FSMHC shall be in compliance with Title VI of the Civil Rights Law of 1962, including §504 which prohibits discrimination against the handicapped.

802.3 The FSMHC shall agree to the requirement that all services shall be provided under the direction of a physician.

802.4 The FSMHC shall have appropriate written and dated procedures for storing, dispensing, and administering drugs and biologicals.

802.5 The FSMHC shall agree to provide its services as stated in its provider agreement to all eligible Medicaid patients who seek those services, and shall not exclude any patient for any reason other than the fact that the patient requires services not provided by the FSMHC.

802.6 The FSMHC shall inform all Medicaid patients that it is their legal right to freely choose the provider(s) from whom they will receive services.

803 STAFFING AND ADMINISTRATION

803.1 Each participating FSMHC shall be staffed with qualified mental health professionals who shall be professionally responsible for the provision of the mental health services delineated in its approved provider agreement.

803.2 Each participating FSMHC shall have a physician on the staff available on a regular and emergency basis to take professional responsibility for the patient's medication, hospitalization, and other medical decisions.

803.3 Each participating FSMHC's approved organizational chart and program manual shall clearly show that its services will be provided by or under the direction of a physician.

803.4 In accordance with U.S. Department of Health and Human Services regulations contained in 42 CFR 440.90 (which specify that, for purposes of federal financial participation, "clinic services, means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services provided to an out-patient, by or under the direction of a physician... by a facility that is not part of a hospital but is organized and operated to provide medical care to out-patients." the physician on the staff of the FSMHC shall be a psychiatrist.

803.5 The supervision of overall management of the patient care shall be the responsibility of the psychiatrist, and the psychiatrist shall be available for advice and consultation as needed.

803.6 Each participating FSMHC shall have a full-time administrator who shall have the authority and responsibility for the conduct of the affairs of the facility except for those matters committed by the provisions of this chapter to the authority of the physician.

803.7 The adminstrator's qualifications, authority, and duties shall be defined in writing.

803.8 Each participating FSMHC shall have a current organizational chart that clearly defines the agency structure, staff responsibilities, and lines of authority.

803.9 The organizational chart shall also show relationships between the clinic and outside entities, such as the following:

(a) The Board of Directors;

(b) Steering committees;

(c) Advisory boards; and

(d) Health or service affiliations.

804 PROGRAM MANUAL

804.1 Each participating FSMHC shall have a current program manual that outlines all of its policies and procedures.

804.2 The program manual shall include, but not be limited to, the following:

(a) A mission statement reflecting the goals and missions of the DHS Mental Health Services Administration;

(b) The range or services to be provided;

(c) Fee schedules;

(d) The population to be served;

(e) Operational schedules;

(f) Staff policies, personnel policies, clinic policies, and quality assurance standards;

(g) Financial and record-keeping procedures; and

(h) Patient's rights.

804.3 The personnel policies shall include the following:

(a) Written job descriptions of all staff positions, procedures for employee hiring, evaluations, grievances, and in-service training;

(b) In-service training of meaningful nature for all non-professional staff and identification of the supervisor(s) responsible for providing and facilitating that training;

(c) A minimum of one (1) hour per week of supervision for all non-professionals, student trainees, staff-in-training, and volunteers, furnished by a mental health professional designated as the supervisor. Supervision shall cover patient related and other activities;

(d) An up-to-date listing of professional staff licensure and registration information; and

(e) Written policies and procedures for emergency care.

804.4 All personnel policies shall be reviewed at least annually, revised as indicated, and the date of review and revisions shall be noted in the program manual.

805 RECORDS

805.1 In order to ensure that the treatment provided and paid for with Medicaid funds is of the highest quality and fully meets all standards for Medicaid reimbursement, each participating FSMHC shall maintain Medicaid patient records and individualized treatment plans in a manner that will render them amenable to audit and review by authorized federal, state, and DHS mental health and Medicaid personnel.

805.2 The requirements of §805.1 shall not infringe upon any protections of the law regarding confidentiality, but shall ensure mandated access to the necessary records as provided for in both federal and District law.

805.3 The participating FSMHC shall maintain, and make available upon request by authorized federal and local Medicaid personnel, complete financial records covering its operations. Federal regulations governing Medicaid reimbursement require audits and reviews to support reimbursements.

805.4 All required financial records and information shall be maintained for a period of at least three (3) years following the date of treatment for which Medicaid was billed, or until an audit has been completed, whichever comes first.

805.5 All medical records shall be retained in accordance with D.C. law.

806 MEDICAL RECORDS

806.1 All phases of the patient's program, and related information, shall be entered in the record.

806.2 The medical records shall include, but are not limited to, the following:

(a) Complete identification data, including Medicaid number and other third party payor information;

(b) Medical history, initial psychiatric and social evaluations, and histories, and, if appropriate, social service and nursing care plans for meeting current and future personal, financial, social, and nursing needs of the patient;

(c) Physician's medication orders and medications given by the appropriate nursing personnel, noted and signed;

(d) All medical treatment received during treatment and appropriate progress notes related to it. Patients on drugs should have, where indicated, routing blood or other examinations to detect irregularities, duly recorded;

806 MEDICAL RECORDS (Continued)

806.2 (Continued)

(e) Periodic interdisciplinary reviews, at intervals not to exceed three (3) months, regarding the care, treatment, and progress of the patient to ensure that all appropriate measures are taken for the patient's improvement and that continued treatment is necessary. These reviews shall include a substantive evaluation of the treatment plan. The patient's continuing need for treatment shall be clearly documented;

(f) Brief progress notes, to be written by the mental health professional responsible for carrying out the treatment plan and entered at least monthly;

(g) Summary of significant, face-to-face contact by mental health professionals with the patient sufficient to readily identify and support Medicaid billing; and

(h) Each record entry shall show the signature, discipline, and date entered.

807 INDIVIDUAL TREATMENT AND THERAPEUTIC PLANS

807.1 Copies of individual treatment and therapeutic plans shall be filed in the patient records.

807.2 The treatment and therapeutic plans shall include, but are not limited to, the following:

(a) A written assessment of the patient's current mental condition, signed and dated by the physician;

(b) Diagnosis by the physician, such as listed in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, or other professionally acceptable source;

(c) The names of the mental health professional and physician involved in the approval and direction of the treatment plan;

(d) A statement of the patient's specific complaints, including the limitations and abilities, specific problems, and specific needs of the patient;

(e) A statement of the specific goals of the patient and other significant factors in seeking treatment;

807 INDIVIDUAL TREATMENT AND THERAPEUTIC PLANS (Continued)

807.2 (Continued)

(f) A notation of the role of the patient in determining specific goals of the treatment program to include whether or not the patient is in accord with these goals;

(g) A projected timetable for the achievement of both short and long term goals;

(h) The name and title of the mental health professionals responsible for implementation and monitoring of the treatment plan showing one (1) mental health professional as responsible for supervising the implementation of the plan, integrating the various aspects of the program, and ensuring the recording of progress notes; and

(i) The name and title of other staff who shall participate in carrying out the treatment plan.

808 REIMBURSEMENT

808.1 Since Medicaid cannot reimburse providers for services given without charge to the general public unless they are specifically exempted from charges by law, a participating FSMHC shall have an established fee schedule covering each of the services it provides from which a charge is made to each patient receiving the services.

808.2 A participating FSMHC shall agree to accept as payment in full the amount determined by the Department of Human Services as the fee for the authorized services provided to Medicaid patients. No additional charge may be made to the Medicaid patient, any member of the family, or to any other source.

808.3 A participating FSMHC shall agree to bill any and all other known third party payors prior to billing Medicaid.

808.4 A participating FSMHC shall understand that the payment and satisfaction of any Medicaid claim will be from federal and District funds, and that false claims, statements, documents, or concealment of material fact may be prosecuted under applicable federal and District laws.

808.5 The Department of Human Services shall establish fees and reimburse for only those services provided face-to-face by or under the direct supervision of a physician.

808.6 Treatment-related services, such as information and referral services, charting, staffing of patients, co-therapy phone crisis intervention, case management, person and agency conferences, and similar charges shall not be reimbursable under Medicaid.

808.7 Recreational therapy shall not be reimbursed under Medicaid.

808.8 Medicaid shall reimburse a participating FSMHC for only one (1) type of service for a Medicaid patient on a given day; Provided, that if a full prescription visit, or medication assessment visit is indicated in addition to a therapy visit, and is accomplished on the same day, both services may be billed as long as no more than one (1) double billing of this type occurs in a single month. Any additional double billings deemed medically necessary shall be justified to, and approved by, the Medical Assistance Division prior to submission for payment.

808.9 The following services shall be reimbursable if the physician has certified that the services were medically necessary and a treatment plan for the services has been established by a physician or other qualified mental health professional which is periodically reviewed and approved by a physician:

(a) INDIVIDUAL PSYCHOTHERAPY - verbal, drug augmented, or other therapy methods provided by a mental health professional in a face-to-face involvement with one (1) patient to the exclusion of other patients and duties. A minimum of fifty (50) minutes shall be allotted to the patient's therapy hour;

(b) PRESCRIPTION VISITS - a visit with a physician for review and evaluation of the medication history of the patient and the writing or renewal of prescriptions as necessary. A minimum of fifteen (15) minutes shall be allotted to the visit;

(c) FAMILY THERAPY - therapy with the patient and one (1) or more family members present. Verbal or other therapy methods by a mental health professional in a personal involvement with the patient and family to the exclusion of other patients and duties. A minimum of sixty (60) minutes shall be allotted to the therapy hour. The clinic may bill Medicaid only for the Medicaid patient;

(d) FAMILY CONFERENCES - meeting with the family, or other significant persons (school, court, or other agency officials), to interpret or explain medical, psychiatric, or psychological examinations and procedures, other accumulated data and advice on how to assist the patient. A minimum of fifty (50) minutes shall be allotted to personal involvement with the family or other significant persons. The clinic may bill Medicaid only for the Medicaid patient;

808 REIMBURSEMENT (Continued)

808.9 (Continued)

(e) COMPLETE PSYCHOLOGICAL TESTING - up to five (5) hours of psychometric and projective tests with a written report done under the direction of a licensed clinical psychologist; and

(f) GROUP THERAPY - verbal or other therapy methods provided by a mental health professional in face-to-face involvement with three (3) or more patients with a maximum of twelve (12) patients. A minimum of sixty (60) minutes shall be allotted to the therapy hour.

809 AUDITS AND REVIEWS

809.1 Federal laws and regulations governing the Medicaid program mandate the ongoing conduct of audits and reviews by the state agency to detect and deter provider fraud and Medicaid patient misutilization and abuse. For the Department of Human Services, the Medical Assistance Division shall carry out these responsibilities.

809.2 The Surveillance and Utilization Review Branch (SUR) of the Medical Assistance Division, shall perform ongoing audits, on-site visits, and reviews to ensure that Medicaid payments are consistent with efficiency, economy, and quality of care.

809.3 The review process shall be routinely conducted to determine, by scientific sampling, the appropriateness of services rendered and billed to Medicaid.

809.4 The SUR shall conduct routine onsite audits and reviews of each participating FSMHC to ensure that the FSMHC records fully, accurately, and properly document the provision of appropriate services to Medicaid patients that were billed to Medicaid during the period covered by the audit.

809.5 Using a scientifically acceptable sampling technique, the SUR shall examine the medicaid patient records to determine whether or not services billed to Medicaid were appropriate and properly documented in the patient record. Questionable billings found shall be reviewed and discussed with the appropriate FSMHC staff for possible clarification and acceptance.

809.6 If SUR determines that billings are to be denied, the Department of Human Services shall recoup, by the most expeditious means available, those monies erroneously paid to the FSMHC for denied billings.

809 AUDITS AND REVIEWS (Continued)

809.7 The recoupment amounts shall be determined by a formula by which a percentage shall be arrived at representing the relationship between the total billings from the FSMHC during the period being audited and the number of denied billings resulting from the audited sample which shall be applied to the total Medicaid dollars paid the FSMHC during the period covered by the audit and shall determine the dollar amount to be recouped. For example, if one hundred (100) records are audited in which one thousand (1,000) were billed to Medicaid and ten (10) of those billed services are denied for reimbursement, this represents a one percent (1%) denial rate. If during the period being audited, Medicaid paid the FSMHC ten thousand dollars ($10,000), one percent (1%), or one hundred dollars ($100) would be recouped.

809.8 A participating FSMHC shall agree to facilitate audits and reviews by maintaining the required records and by cooperating with the authorized personnel assigned to perform audits and reviews. These personnel are bound by law to fully respect and abide by all protections of the law regarding confidentiality.

809.9 All prospective FSMHC providers shall be informed that because there is federal financial participation in Medicaid payment, penalties on substantiated fraudulent activities are twenty-five thousand dollars ($25,000) fines, imprisonment up to five (5) years, or both.

899 DEFINITIONS

899.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Activity (progress) notes - a chronological record reflecting direct and indirect services rendered to attain specified goals listed in the patient's individualized treatment plan.

Administrator - a qualified mental health professional, as defined in this section, or a person found to be qualified as such by the Administrator, Department of Human Services, Mental Health Administration.

Area mental health clinic - a program that is organized and operated to provide a comprehensive range of mental health and mental retardation treatment services to a designated geographic area.

Case management - coordination of activities aimed at linking patients to the service system or systems in order to achieve a successful outcome.

Continuity of service - an uninterpreted sequence of service coordinated by the patient's case manager.

Crisis situation - circumstances where a person is suddenly in such distress that his or her capacity to cope with daily activities has been seriously impaired or is dangerous to self or others, or both.

Current - occurring in and belonging to the present time.

Discharge plan - a statement of conditions(s) under which a patient shall be released from active service within the treatment program. May include, as indicated, linkages to be made with persons or agencies in the patient's natural support environment (such as family, job, housing, social groups, church, and other persons and entities).

Discharge summary - a written review of the outcome obtained from the delivered services, including the reason for discharge.

Free standing mental health clinic - a formally organized psychiatric clinic furnishing psychiatric services, under the direction of a physician who is duly credentialed in the jurisdiction(s) in which he or she practices, in a facility not administered by a hospital, but organized and operated to provide mental health services on an outpatient basis, and which is certified as such by the Department of Human Services in accordance with existing laws and regulations.

Goals - a statement mutually agreed upon by patient and provider of the desired outcome to be achieved as a result of the services to be rendered.

Individualized treatment plan - an organized statement of treatment goals, methods of intervention, and timetables to guide the service provided to the patient.

Least restrictive environment - the environment that meets the current needs of the patient and that is as close to the patient's natural environment as is consistent with the patient's safety.

Legal status - voluntary, non-protesting (self, guardian), or involuntary, court-ordered.

Medical history - a record of the following information, at a minimum, about the patient:

(a) Major surgical procedures that have been performed on the patient and any related complications;

(b) Any present, past, or recurring diseases; and

(c) The patient's current medical condition and status, including the names of physician(s) rendering current medications or other ongoing treatments to the patient.

Medication documentation - sequential records of all medications prescribed, dispensed, or administered by appropriate clinic staff. Must include name of drug(s), dosage, route and frequency of administration, number given, number of refills, and signatures of prescribing physician or other authorized staff rendering service.

Mental health professional - the following are mental health professionals, often functioning in job title (e.g., program director) other than their discipline titles:

(a) **Physician** - a person licensed to practice medicine in the jurisdiction(s) in which he or she practices;

(b) **Psychiatrist** - a physician who has completed a residency in psychiatry approved by the American Board of Psychiatry and Neurology and who is licensed in the jurisdiction(s) in which he or she practices;

(c) **Psychiatric nurse** - a registered nurse licensed in the jurisdiction(s) in which he or she practices, who holds a Master's Degree from a school of nursing of recognized standing, and is eligible for certification as a psychiatric-mental health nursing specialist by the American Nurses' Association;

(d) **Social worker** - the holder of a Master's Degree in social work from an accredited university and social work program accredited by the Council on Social Work Education, and who meets the qualifications set by the Clinical Registers of the National Association of Social Workers and the Federation of Clinical Social Workers;

(e) **Psychologist** - the holder of a Doctoral Degree in psychology conferred by a graduate school of recognized standing who is licensed in the jurisdiction(s) in which he or she practices; and

(f) **Other professionals** - persons who are not considered automatically qualified to perform services reimbursable by Medicaid, and who are not considered eligible to serve as clinic directors, or in other positions, until and unless prior approval is granted in writing by the Administrator, DHS Mental Health Services Administration. These persons are those having equivalent professional education, training, and experience in mental health disciplines or behavioral sciences.

Mental status - a statement that briefly describes the patient's affect, thought processes, and orientation to time, place, person, and situation. If impairments are noted, more extensive information is obtained.

Natural service environment - those locations encountered by the patient in the ordinary course of life (including school or jail). In this service environment, the service delivery programs should identify useful resources already available, such as the patient's family, various self-help groups, church-sponsored groups and programs, and community groups interested in mental health.

Natural support system - individuals and organizations that give and receive support within the individual patient's natural environment.

Outcome - the patient's behavioral responses after contact with the mental health service system.

Paraprofessionals - persons with experience and training in specialized mental health areas who perform limited and controlled treatment activities, not directly billable to Medicaid, under the close, face-to-face supervision of a mental health professional.

Patient - the Medicaid eligible service recipient.

Patient participation - the involvement of the patient in developing and implementing the individualized treatment plan.

Progress review summary - a periodic written review of the patient's movement or lack of movement toward achieving the goals and objectives specified in the individualized treatment plan, and any necessary revisions of goals and modality of treatment. This includes timetables, names of service providers, and, when appropriate, discharge planning.

Protective service environment - those surroundings or locations which provide safeguards for the well-being of the patient and other people. This environment includes those facilities which provide around-the-clock supervised care.

Provider - a free standing mental health clinic certified by the Department of Human Services as eligible to participate in the D.C. Title XIX Medicaid Program.

Supportive service environment - a surrounding which promotes or maintains a patient's interests, participation, and responsibiities. This environment includes the programs and services provided by a community mental health/mental retardation center, or short-stay residential treatment centers.

Sustenance - a treatment activity aimed at maintaining the patient's intrapersonal, interpersonal, and instrumental skills.

Timetable - an appropriate time-frame, expressed in weeks or months, for achieveing the outcomes described in the patient's individualized treatment plan.

Volunteers - carefully selected persons who provide unremunerated services which are limited, controlled, and closely supervised by mental health professionals.